IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3543 OF 2005

1. Mohan Mahadeo Borade & Anr.] .. Petitioners

Versus

1. State of Maharashtra & 2 ors.] .. Respondents

Mr.P.K. Hushing for the petitioners.

Mr.C.R. Sonawane, AGP, for respondents No.1 and 2.

Mr. R.G. Ketkar for respondent No.3.

CORAM: R.M. LODHA &
NARESH H. PATIL, JJ.

DATED: 21ST JULY, 2006

P.C. :

. Heard Mr.P.K. Hushing, the counsel for petitioners, the Assistant Government Pleader and Mr. R.G. Ketkar for respondent No.3.

2. The following prayers have been made in the Writ Petition:

> "(b) This Honourable Court be pleased to direct the Respondent Corporation accept the applications of the Petitioners in the prescribed form and to consider their applications for licences for running the said Tanneries in S. No.86-A, Wanawadi, Pune

as before.

(c) This Honourable Court be pleased to direct the Respondents to keep the slaughter houses and other tanneries (and places of business) mentioned in the para No.XI above clean and hygienic and to make all the necessary arrangement for the proper, effective and continuous removal of the waste material from the area of the said slaughterhouses and the other tanneries mentioned in the said paragraph.

(d) This Honourable Court be pleased to direct the Respondents to consider the representation given by the Petitioners by their notice annexed at Annexure "D" to this Petition within such reasonable time as this Honourable court may deem just and necessary."

3. In our considered view, the prayers made in the Writ Petition are wholly misconceived and do not deserve to be granted. It would be seen that in exercise of its power conferred to it under the Bombay Provincial Municipal Corporation Act, 1949, (for short ‘the Act of 1949’) the Pune Municipal Corporation (for short ‘the Corporation’) passed an order directing the present petitioners to remove the Tanneries as it was creating health and sanitary problems in the area. Aggrieved by the order of the Municipal Corporation of Pune, the petitioners approached the State Government under Section 451 of the Act of 1949. The State Government by its order dated 12th February, 2003 set aside the order of the Corporation. The order of the

State Government dated 12th February, 2003 came to be challenged before this Court in Public Interest Litigation No.97 of 2003 **Netaji Pratisthan Vs. Government of Maharashtra & ors.** The present petitioners were respondents No.4 to 6. The Division Bench of this Court held that the order of the State Government dated 12th February, 2003 was wholly unsustainable in the eye of law and consequently set aside the said order.

4. The counsel for petitioners submitted that in paragraph 7 of the order dated 30th August, 2004 passed by this Court in PIL No.97 of 2003, this Court observed that the order would not come in the way of respondents No.4 to 6 to take all steps available to them in accordance with law. The counsel would submit that the present Writ Petition is filed in the light of the observation made by the Division Bench in paragraph 7 of the order.

5. We are afraid, once the Municipal Corporation of Pune passed an order directing the petitioners to remove the Tanneries as it endangered the social health and created sanitary problems in the area and that order has been maintained by this Court in its order dated 30th August, 2004, the petitioners cannot be permitted

to apply again for running the Tanneries at that place. We are informed by the counsel for the Corporation that vide application dated 6th August 2005, the present petitioners sought two months' time from the Corporation for closure of the Tanneries and the Corporation accordingly granted two months' time to the petitioners. Having represented to the Corporation for extension of time for closure of the Tanneries, it is not open to the petitioners to now make application for licences for running the Tanneries at that very place.

6. We, accordingly, find no justification in entertaining this Writ Petition. Writ Petition is dismissed in limine.

Sd/-
[R.M. LODHA, J.]

Sd/-
[NARESH H. PATIL, J.]